

AMENDED IN ASSEMBLY MARCH 6, 2008

AMENDED IN SENATE APRIL 24, 2007

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 27

**Introduced by Senators ~~Simitian, Machado, Perata, and Steinberg~~
*Senator Simitian***

December 4, 2006

~~An act to add Division 26.6 (commencing with Section 79600) to the Water Code, relating to the Sacramento-San Joaquin Delta. An act to add Division 26.6 (commencing with Section 79600) to the Water Code, relating to financing a water quality, environmental enhancement, and water supply reliability program, by providing the funds necessary therefor through an election for the issuance and sale of bonds of the State of California and for the handling and disposition of those funds.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 27, as amended, Simitian. Sacramento-San Joaquin River Delta, Clean Drinking Water, Water Supply Security, and Environmental Improvement Act of 2008.

Under existing law, various bond acts have been approved by the voters to provide funds for water projects, facilities, and programs. Under existing law, various state agencies administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta.

This bill would enact the Sacramento-San Joaquin River Delta, Clean Drinking Water, Water Supply Security, and Environmental Improvement Act of 2008, which, if approved by the voters, would authorize, for the purposes of financing a water quality, environmental

enhancement, and water supply reliability program, the issuance, pursuant to the State General Obligation Bond Law, of bonds in the amount of \$4,000,000,000. The bill would require the Secretary of State to submit the bond act to the voters at the November 4, 2008, statewide general election.

The bill would establish in state government the Delta Water and Land Use Authority, prescribe the composition of its board of directors, and grant to the authority a broad range of powers relating to the preservation of the delta ecosystem and the delivery of a reliable state water supply. The bill would authorize the authority to contract to design, construct, and own one or more facilities to move water from the Sacramento River to federal and state pumping facilities on behalf of the State Water Project, the federal Central Valley Project, and local water agencies that can reasonably be served by those facilities.

The bill would authorize the authority to exercise the powers and duties of the Department of Water Resources with respect to the financing, design, construction, ownership, and operation of those facilities. The authority would succeed to the powers and duties of the California Bay-Delta Authority, which would cease to exist on the date on which the authority conducts its first meeting. The bill would authorize the authority to issue revenue bonds to finance the design, environmental review, permitting, and construction of those facilities. The bill would authorize the authority to impose a fee for the transmission of water through these facilities, and would continuously appropriate funds generated by that fee to the authority to repay the revenue bonds and to pay other costs, including costs associated with the operation and maintenance of the facility and the expenses of the authority.

The bill would require the authority to impose other fees, including a fee, not to exceed \$50 per acre-foot of water transmitted through the facilities, or otherwise pumped from the delta, as specified, on federal and state contractors and affected local water agencies. The bill would authorize the authority to impose a fee on specified water users to mitigate impacts on delta ecological functions caused by their diversions. The bill would require the funds generated by these fees to be deposited in the Clean Drinking Water, Water Quality Improvement, and Environmental Enhancement Fund, which the bill would establish. Funds generated by these fees would be continuously appropriated to the authority for an environmental restoration program. Proceeds generated from the issuance of general obligations bonds would be

deposited in the fund. These proceeds would be continuously appropriated to the authority for capital outlay projects in accordance with the bill's provisions.

The bill would establish within the California Coastal Commission the Delta Watershed Conservancy. The conservancy would be required to implement projects and programs, within the watershed of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary and the watershed of the Trinity River, to restore and enhance the bay-delta ecosystem and improve water quality. The bill would require the authority to adopt or reject each decision of the conservancy. The bill would subject any approval of development by a city or county in specified zones of the delta, and certain lands adjacent to the delta, to review by the Delta Protection Commission. The commission would be prohibited from approving that development unless specified requirements are met. The bill would require the authority to adopt or reject these land use decisions of the commission. Public agencies would be required to manage agricultural lands they own within the delta in a specified manner.

The bill would provide that its provisions would only become operative if a specified measure is approved by the voters at the November 4, 2008, statewide general election.

~~Under existing law, various state agencies administer programs relating to water supply, water quality, and flood management in the Sacramento-San Joaquin Delta.~~

~~This bill would require the Secretary of the Resources Agency, on or before January 1, 2008, to begin implementing certain actions on behalf of the Sacramento-San Joaquin River Delta, including investing in emergency preparedness, funding projects to aid sustainability in the delta, identifying critical levels to be strengthened, and commencing delta restoration projects. The secretary would be required to take necessary action to ensure that the requirements of a specified Governor's executive order relating to the delta are met in a timely manner. The bill would declare legislative intent to enact legislation to begin implementing a program for sustainable management of the delta in 2008. The bill would make related declarations and findings.~~

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Division 26.6 (commencing with Section 79600)*
2 *is added to the Water Code, to read:*

3
4 *DIVISION 26.6. SACRAMENTO-SAN JOAQUIN RIVER*
5 *DELTA, CLEAN DRINKING WATER, WATER SUPPLY*
6 *SECURITY, AND ENVIRONMENTAL IMPROVEMENT ACT OF*
7 2008

8
9 *CHAPTER 1. GENERAL PROVISIONS*

10
11 79600. *This division shall be known, and may be cited, as the*
12 *Sacramento-San Joaquin River Delta, Clean Drinking Water,*
13 *Water Supply Security, and Environmental Improvement Act of*
14 2008.

15 79601. *The Legislature finds and declares all of the following:*

16 (a) *The Sacramento-San Joaquin River Delta is a web of*
17 *channels and reclaimed islands at the confluence of the Sacramento*
18 *and San Joaquin Rivers. It forms the eastern portion of the wider*
19 *San Francisco Estuary, which includes the San Francisco, San*
20 *Pablo, and Suisun Bays. The delta collects water from California's*
21 *largest watershed, which encompasses roughly 45 percent of the*
22 *state's surface area and stretches from the eastern slopes of the*
23 *coastal ranges to the western slopes of the Sierra Nevada.*

24 (b) *Levees built 100 years ago confined water to channels and*
25 *transformed the delta from marshland into dry "islands" of land*
26 *available for human use. Within 837,594 acres in the delta and*
27 *the Suisun Marsh, levees confine water to 10 percent of the total*
28 *area, while 557,896 acres are devoted to agriculture.*

29 (c) *The delta supports a unique and irreplaceable combination*
30 *of environmental and economic values, including all of the*
31 *following:*

32 (1) *Delta ecosystem. The San Francisco Bay/Sacramento-San*
33 *Joaquin Delta Estuary is a unique ecosystem. The delta and the*
34 *adjacent Suisun Marsh, an integral part of the delta ecosystem,*
35 *provide habitat for 700 species, including 12 species listed under*
36 *either the federal or state endangered species laws. Eighty percent*
37 *of the state's commercial fishery species live in or migrate through*
38 *the delta. It is a major stopping point for hundreds of thousands*

1 of migrating birds along the Pacific Flyway. The Suisun Marsh
2 alone contains more than 10 percent of California's remaining
3 wetlands.

4 (2) Water supply. Two-thirds of the state's residents rely on the
5 delta for part or all of their drinking water. Water exported from
6 the delta irrigates 45 percent of the fruits and vegetables produced
7 in the United States, and one-sixth of all irrigated lands in the
8 nation are located in this watershed.

9 (3) Agricultural and other land uses. Delta lands have
10 contributed significantly to the agricultural economy in California.
11 Supporting a population of about 470,000, the cities, towns, and
12 settlements within the delta are of significant historical, cultural,
13 and economic value.

14 (4) Major transportation corridors. Three state highways, three
15 rail lines, and two deepwater channels cross the delta and the
16 delta is home to two inland ports. Most of these transportation
17 corridors serve other areas of the state.

18 (5) Utility corridors. Hundreds of gas lines, five high voltage
19 lines, and critical water supply aqueducts that serve public health
20 and safety needs cross the delta, including multiple delta islands.
21 The delta is also home to numerous underground natural gas
22 storage sites.

23 (6) Recreation. The delta's 635 miles of boating waterways are
24 served by 138 marinas containing 11,700 inwater boat slips and
25 dry storage for 5,500 boats. In 2000, there were an estimated 6.4
26 million boating-related visitor days, with 2.13 million boating
27 trips. Other major recreational activities in the delta include
28 fishing, waterfowl, and upland game bird hunting, wildlife viewing,
29 bird watching, and windsurfing.

30 (7) Flood management. The delta is the natural drain to a
31 42,500 square mile watershed that includes the central valley and
32 the western slope of the Sierra Nevada from Fresno to Mount
33 Shasta. As such, it is the main conduit for floodwaters to flow out
34 to the ocean. The delta itself is protected by extensive, but fragile,
35 flood management facilities, including about 1,100 miles of levees
36 in the delta and about 230 miles of levees in the Suisun Marsh.
37 These levees protect about 65 islands and tracts in the delta. Most
38 of these levee-protected lands are below sea level; some areas are
39 as much as 25 feet below sea level.

1 (d) *The delta cannot sustain important environmental and*
2 *economic values under current conditions. All of these values*
3 *either are already in significant decline or are at risk of sudden*
4 *failure. Several factors are intensifying the problems, including*
5 *all of the following:*

6 (1) *Land subsidence, sea level rise, and changes in climate make*
7 *delta levees increasingly vulnerable to failure from earthquakes,*
8 *floods, and other causes. Over the next 50 years, there is a*
9 *two-thirds chance of a catastrophic levee failure in the delta,*
10 *leading to flooding of multiple islands and the intrusion of*
11 *seawater. For one such scenario, the Department of Water*
12 *Resources estimates that a large earthquake near the delta would*
13 *cause major interruptions in water supplies for southern*
14 *California, the San Joaquin Valley, and the San Francisco Bay*
15 *area, as well as disruptions of power, road, and shipping lines,*
16 *costing the state's economy as much as \$40 billion. These failures*
17 *also would create major environmental disruptions and local*
18 *flooding risks.*

19 (2) *Endangered species and fisheries have continued to decline*
20 *in the delta and disruptive nonnative species continue to invade.*
21 *In the fall of 2004, routine fish surveys registered sharp declines*
22 *in the numbers of several open-water (pelagic) species, including*
23 *the delta smelt, already listed as threatened under the federal and*
24 *state endangered species laws. Subsequent surveys have confirmed*
25 *the trend, raising concerns that the delta smelt, which are*
26 *sometimes seen as an indicator of ecosystem health in the delta,*
27 *risks extinction if a solution is not found quickly. In the winter of*
28 *2008, salmon populations reliant on the delta declined*
29 *precipitously.*

30 (3) *Delta water quality remains at risk from salts entering from*
31 *the ocean and the central valley's agricultural drainage, as well*
32 *as from pesticides and metals coming from agricultural and urban*
33 *lands. Chronic toxicants continue to be a problem, and episodic*
34 *toxic events from urban and agricultural applications are also a*
35 *major problem.*

36 (4) *Regional population and economic growth have increased*
37 *pressure to urbanize delta lands near major transportation routes*
38 *and urban centers. This "hardening" of delta lands simultaneously*
39 *raises the costs of flood risks and reduces the flexibility of land*
40 *management options. Unlike most other activities in the delta,*

1 urbanization is generally irreversible. Additionally, urbanization
2 is self-accelerating. Urbanization in one location significantly
3 increases the value of adjacent lands. This, coupled with declining
4 profit margins for farming, will increase the pressure to convert
5 farmlands to subdivisions. This shift will come at the expense of
6 habitat protection and other services, such as water quality and
7 water supply that are important for other parts of California.

8 (e) The Delta Vision Blue Ribbon Task Force found that new
9 facilities for conveyance and storage, and better linkage between
10 the two, should be developed to better manage California's water
11 resources for both the estuary and exports.

12 79602. It is the intent of the Legislature to begin implementing
13 a program for sustainable management of the delta. By enacting
14 this division, the Legislature intends to accomplish all of the
15 following:

16 (a) Implement the recommendations of the Delta Vision Blue
17 Ribbon Task Force created by Executive Order S-17-06 directing
18 that entity to "develop a durable vision for sustainable
19 management of the Delta" with the goal of "managing the Delta
20 over the long term to restore and maintain identified functions and
21 values that are determined to be important to the environmental
22 quality of the Delta and the economic and social well being of the
23 people of the state."

24 (b) Establish policies to manage the delta that balance equally
25 public trust values and the reasonable use of the state's limited
26 water resources.

27 (c) Complete the environmental evaluation of the preferred
28 alternatives identified by the Bay Delta Conservation Plan and
29 construct the facilities authorized by this division as soon as is
30 feasible.

31 (d) Develop short and intermediate strategies to protect
32 endangered species endemic to the delta while the longer-term
33 preferred alternative is under review and being implemented.

34 (e) Develop short and intermediate actions to protect the
35 drinking, industrial, and farm agricultural water supplies,
36 including critical water supply aqueducts that serve public health
37 and safety needs and cross multiple delta islands, while the
38 longer-term preferred alternative is under review and being
39 implemented.

1 (f) Develop a program designed to restore the delta's
2 environment and protect the state's water conveyance capabilities
3 and infrastructure within the delta.

4 (g) Develop a program that is guided by the principal that the
5 land and waterways of the delta are an integral part of a healthy
6 estuary. The goal of actions and decisions for the delta by relevant
7 governmental entities should be to preserve and enhance native
8 species by creating a more heterogeneous estuarine environment,
9 including a diverse habitat mosaic, expanded areas of seasonal
10 and tidal wetlands, effective connections between the estuary and
11 the larger landscape, and freshwater flows of the right
12 temperatures at the right times. The physical geography of the
13 delta and patterns of food production, nutrient distribution,
14 subsidence reversal, migration, water flow, and salinity should
15 support ecosystem functions and processes characteristic of a
16 productive estuary.

17 (h) Develop programs recognizing that California's water
18 supply is limited and should be managed with significantly higher
19 efficiency to be adequate to meet the needs of future populations,
20 a growing economy, and a sustainable environment.

21 (i) Invest limited financial resources in greater conservation,
22 increased regional self-sufficiency in water supplies, more
23 conjunctive use of groundwater, integrated water system
24 management and demand management, and new technologies.

25 (j) Encourage equitable access to higher quality water sources
26 and seek to reduce conflict among water users for diversion from
27 the highest water quality locations.

28 (k) Make water conservation the first priority underlying
29 governmental decisions and expenditures regarding water
30 originating within the delta watershed and encourage all areas of
31 California to develop policies relying on increased regional
32 self-sufficiency.

33 (l) Ensure that investments of public funds pursuant to this
34 division result in public benefits.

35 (m) Encourage regulatory agencies to respond expeditiously to
36 requests for review of project documents and permit applications
37 by the Delta Water and Land Use Authority established by Section
38 79604.

39 79603. Unless the context requires otherwise, the definitions
40 set forth in this section govern the construction of this division:

1 (a) “Acquisition” means the acquisition of a fee interest or any
2 other interest, including easements, leases, and development rights.

3 (b) “Adoptive management” means a method of constructing
4 and operating physical facilities in a manner that maximizes
5 operational flexibility in response to changing physical and
6 biological conditions.

7 (c) “Authority” means the Delta Water and Land Use Authority
8 established by Section 79604.

9 (d) “Bay area counties” means those counties that are members
10 of the Association of Bay Area Governments.

11 (e) “Bay-delta” means the San Francisco Bay/Sacramento-San
12 Joaquin Delta.

13 (f) “Bay Delta Conservation Plan” means any natural
14 communities conservation plan or habitat conservation plan being
15 developed by the Resources Agency through a consortium of public
16 agencies and nonprofit organizations to protect and restore
17 endangered and threatened species and their habitat in the delta.

18 (g) “Board” or “board of directors” means the board of
19 directors of the authority.

20 (h) “CALFED” means the consortium of state and federal
21 agencies with management and regulatory responsibilities in the
22 bay-delta.

23 (i) “CALFED Bay-Delta Program” means the undertaking by
24 CALFED to develop and implement, by means of the final
25 programmatic environmental impact statement/environmental
26 impact report, the preferred programs, actions, projects, and
27 related activities that will provide solutions to identified problem
28 areas related to the bay-delta ecosystem, including, but not limited
29 to, the bay-delta and its tributary watersheds.

30 (j) “California Environmental Quality Act” refers to the
31 California Environmental Quality Act as set forth in Division 13
32 (commencing with Section 21000) of the Public Resources Code.

33 (k) “Delta” means the area of the Sacramento-San Joaquin
34 Delta that is defined in Section 12220.

35 (l) “Delta Protection Commission” or “commission” means
36 the commission established pursuant to Section 29735 of the Public
37 Resources Code.

38 (m) “Delta Watershed Conservancy” or “conservancy” means
39 the conservancy established pursuant to Chapter 4 (commencing
40 with Section 79640).

(n) “Department” means the Department of Water Resources.

(o) “Facility” means one or more facilities described in Chapter 3 (commencing with Section 79609), and includes the intake facilities and related facilities necessary to implement the facility.

(p) “Fund” means the Clean Drinking Water, Water Quality Improvement, and Environmental Enhancement Fund established by Section 79670.

(q) “Nonprofit organization” means any nonprofit corporation formed pursuant to the Nonprofit Public Benefit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code) and qualified under Section 501(c)(3) of the United States Internal Revenue Code.

(r) “Public water agency” means any public entity, as defined in Section 514, that provides water service, as defined in Section 515.

CHAPTER 2. DELTA WATER AND LAND USE AUTHORITY

79604. There is hereby established in state government the Delta Water and Land Use Authority.

79605. (a) (1) The board of directors of the authority shall consist of seven members, of which five are appointed by the Governor and confirmed by the Senate, one is appointed by the Senate Committee on Rules, and one is appointed by the Speaker of the Assembly.

(2) The initial term of office of each member of the board shall be two, four, or six years, as specified in subdivision (b), and all subsequent terms shall be eight years. No member of the board shall serve two consecutive terms, but a member may be reappointed to the board after a period of two years following the end of his or her term.

(b) (1) At the first meeting of the board, the members shall classify themselves by lot into three classes. One class shall have three members and the other two classes shall have two members each. For the class that has three members, the terms of office shall be two years. The second class, composed of two members, shall serve four years. The third class, composed of two members, shall serve six years. Thereafter, the terms of all succeeding members shall be eight years.

1 (2) *Notwithstanding subdivision (a), all initial board members*
2 *may serve two consecutive terms.*

3 (c) *Any vacancy shall be filled by the appointing authority within*
4 *60 days. If the term of a board member expires, and no successor*
5 *is appointed within the allotted timeframe, the existing member*
6 *may serve 180 days beyond the expiration of his or her term.*

7 (d) *The Governor shall appoint a chairperson from among the*
8 *board members, who shall serve for not more than four years.*

9 (e) *The authority shall meet once a month in a public forum. At*
10 *least two meetings each year shall take place within the delta.*

11 (f) *The Commissioner of the United States Bureau of*
12 *Reclamation, the Director of the United States Fish and Wildlife*
13 *Service, the Director of the National Marine Fisheries Service,*
14 *and the Director of the United States Geological Service, if those*
15 *federal officials wish to participate, as well as the director of the*
16 *department and the Director of Fish and Game, shall be nonvoting*
17 *ex officio members of the board of directors.*

18 79606. *The chairperson shall serve full time. Other members*
19 *shall serve one-third time. The board of directors may select a*
20 *vice chairperson and other officers determined to be necessary.*

21 79607. (a) *Each member of the board shall receive the salary*
22 *provided for in Section 11564 of the Government Code.*

23 (b) *The members of the board of directors shall be reimbursed*
24 *for expenses necessarily incurred in the performance of official*
25 *duties.*

26 (c) *The board of directors shall appoint an executive director*
27 *who shall serve full time.*

28 (d) *The authority shall hire employees necessary to carry out*
29 *the functions of the agency.*

30 (e) *The number of employees and qualifications of those*
31 *employees shall be determined by the authority, subject to the*
32 *availability of funds.*

33 (f) *The salary of each agency employee shall be determined by*
34 *the State Personnel Board, and shall reflect the duties and*
35 *responsibilities of the position.*

36 (g) *All persons employed by the authority are state employees,*
37 *subject to the duties, responsibilities, limitations, and benefits of*
38 *the state.*

39 79608. *The headquarters of the agency shall be located in*
40 *Sacramento.*

1 *CHAPTER 3. MISSION, DUTIES, AND RESPONSIBILITIES OF THE*
2 *DELTA WATER AND LAND USE AUTHORITY*

3
4 79609. *The authority shall do all of the following:*

5 (a) *Have as primary coequal goals, the preservation of the*
6 *native species of the delta ecosystem and the delivery of a reliable*
7 *water supply. In adopting programs to achieve these coequal goals,*
8 *the authority shall balance the legal concepts of reasonable use*
9 *of the waters flowing into the delta, and maintenance of the public*
10 *trust values of the delta and its waters. For the purposes of this*
11 *subdivision, “delivery of a reliable water supply” includes assisting*
12 *in meeting delta water quality standards established by the State*
13 *Water Resources Control Board.*

14 (b) *Adopt capital investment strategies that strengthen selected*
15 *levees, improve floodplain management, and improve water*
16 *circulation and quality. The strategies shall address the protection*
17 *of critical water supply aqueducts that serve public health and*
18 *safety needs and cross multiple delta islands. In adopting land use*
19 *decisions in the delta, first priority shall be given to strategies that*
20 *restore the level of delta lands to above sea level, and that reduce*
21 *the emission of greenhouse gases from the delta.*

22 (c) (1) *The authority shall develop goals for minimum flow*
23 *levels for streams tributary to the delta consistent with achieving*
24 *ecological benchmarks, including doubling of specified fish*
25 *populations in designated timeframes.*

26 (2) *The authority shall consult with the United States Fish and*
27 *Wildlife Service and, where applicable, shall adopt stream*
28 *restoration guidelines for fisheries developed within the*
29 *anadromous fish restoration program.*

30 (3) *The authority shall, in addition, utilize as guidelines for*
31 *ecosystem restoration those developed by the CALFED Ecosystem*
32 *Restoration Program.*

33 (d) (1) *The authority and the Delta Watershed Conservancy*
34 *may purchase, sell, hold, and transfer water rights for both*
35 *environmental and water supply purposes. The water rights shall*
36 *be used to meet water supply and fishery restoration goals, and*
37 *shall be acquired only from willing sellers with the approval of*
38 *the State Water Resources Control Board.*

39 (2) *The authority granted by this subdivision is for the express*
40 *purpose of providing a design and setting priorities for water*

1 *purchases from willing sellers and meeting fishery restoration*
2 *goals, and does not contradict, conflict with, or supersede any*
3 *existing water rights, statutes, or adjudications.*

4 *(e) Adopt policies discouraging inappropriate urbanization of*
5 *the delta to maximize public safety and protect critical*
6 *infrastructure of statewide significance.*

7 *(f) Adopt delta land use policies that minimize the risk of*
8 *flooding of vital infrastructure, and urbanization of the delta.*

9 *(g) (1) Adopt policies for the delta that are designed for*
10 *resiliency and adaptive management of the terrestrial and aquatic*
11 *habitat.*

12 *(2) These policies shall include specific benchmarks and*
13 *timelines for habitat purchase that shall guide decisions by the*
14 *Delta Watershed Conservancy, and land use decisions undertaken*
15 *by the Delta Protection Commission.*

16 *(3) In determining whether to adopt decisions made by the Delta*
17 *Watershed Conservancy and the Delta Protection Commission,*
18 *the authority shall determine that those decisions are consistent*
19 *with and do not conflict with the habitat restoration goals*
20 *established by this division.*

21 *(h) Adopt policies designed to bring about immediate*
22 *improvements to the existing through-delta export system, while*
23 *the preferred long-term option is being designed and is undergoing*
24 *environmental review.*

25 *(i) (1) Adopt benchmarks for assessing progress toward critical*
26 *goals drawing on contributions from scientists, state and federal*
27 *agency program managers, and knowledgeable members of the*
28 *public.*

29 *(2) Fishery restoration goals shall include, at a minimum, those*
30 *established by the anadromous fish restoration program of the*
31 *United States Fish and Wildlife Service.*

32 *(j) Mitigate, to the extent feasible, adverse impacts to native*
33 *fish that may result from actions taken pursuant to this division.*

34 *79610. (a) The authority may contract to design, construct,*
35 *and own a facility or facilities to move water from the Sacramento*
36 *River to the Harvey Banks Pumping Plant of the State Water*
37 *Resources Development System, and the Tracy Pumping Plant of*
38 *the federal Central Valley Project.*

39 *(b) The authority shall serve as the lead agency for conducting*
40 *environmental studies pursuant to the California Environmental*

1 *Quality Act and the state lead agency for purposes of the National*
2 *Environmental Protection Act (42 U.S.C. Sec. 4321 et seq.). The*
3 *authority shall serve as the successor lead agency to scoping and*
4 *drafting environmental documents contracted for by the department*
5 *and the Resources Agency prior to the date on which the authority*
6 *becomes operational.*

7 *(c) The authority shall conduct an environmental review of the*
8 *preferred alternative or alternatives adopted in the Bay Delta*
9 *Conservation Plan. Alternatives considered shall include at least*
10 *all of the following:*

11 *(1) A dual conveyance option that includes an isolated*
12 *conveyance facility combined with an improved through-delta*
13 *mechanism.*

14 *(2) A stand-alone isolated facility, if the authority determines*
15 *that moving water from the Sacramento River to the pumps through*
16 *the delta is significantly threatened by seismic activity, flooding,*
17 *ocean rise, or other human or natural causes.*

18 *(3) A no-project alternative analysis consistent with the*
19 *California Environmental Quality Act and the National*
20 *Environmental Protection Act (42 U.S.C. Sec. 4321 et seq.).*

21 *(d) (1) The facility shall be designed to convey water for the*
22 *State Water Project, the federal Central Valley Project, and local*
23 *water agencies that can reasonably be served by the facility. The*
24 *design of the facility shall reflect consideration of the*
25 *recommendations of the Delta Vision Blue Ribbon Task Force*
26 *established by Executive Order S-17-06 and the final program*
27 *developed pursuant to the October 6, 2006, Planning Agreement*
28 *for the Bay Delta Conservation Plan, as well as designs and*
29 *mitigation actions identified in the environmental impact*
30 *report/environmental impact statement prepared in accordance*
31 *with subdivision (c).*

32 *(2) The authority shall not construct facilities to convey water*
33 *for a water agency unless the authority has entered into a contract*
34 *with the water agency for repayment of the authority's costs in*
35 *accordance with this division.*

36 *(3) The authority may contract with any public agency to*
37 *transport water through the facility, subject to the requirements*
38 *of this division.*

39 *(4) The design, construction, and operation of the facility shall*
40 *comply with all of the following requirements:*

1 (A) Allow the State Water Project and the federal Central Valley
2 Project, if the federal Central Valley Project wishes to participate,
3 to reliably deliver water to export contractors.

4 (B) Reduce impacts to native fish caused by the operation of
5 the export pumps and improve the operational flexibility and ability
6 of the State Water Project and the federal Central Valley Project
7 to provide ecosystem and water supply benefits.

8 (C) Provide conditions that will allow for habitat improvements
9 for fish and wildlife in the delta, the recovery of listed species, and
10 sustainable ecosystem functions.

11 (D) Provide improved water supply reliability and conveyance
12 for the State Water Project and the federal Central Valley Project
13 and for water transfers.

14 (E) Reduce the quantity of bromide, total organic carbon, and
15 total dissolved solids in the water pumped at state and federal
16 water pumping facilities and by local agencies to protect the public
17 health and improve the ability to manage salinity concentrations
18 in water exported.

19 (F) Increase the flexibility to manage uncertainties associated
20 with climate change and future fishery needs.

21 (G) Promote ecosystem restoration of the delta.

22 (H) Facilitate wet-year water storage for use in dry years.

23 (e) The authority shall have all the powers, duties, and
24 obligations of the department with respect to the financing, design,
25 construction, ownership, and operation of the facility.

26 (f) The facility shall be operated consistent with Sections 10505,
27 10505.5, 11128, 11460 to 11463, inclusive, and nothing in this
28 division affects the application of those sections.

29 (g) The construction and operation of the facility shall be subject
30 to, and the authority shall comply with, all applicable state and
31 federal environmental laws and regulations and the terms and
32 conditions of any applicable water rights permits and licenses.

33 (h) (1) The authority shall enter into a contract with a joint
34 powers agency composed of water agencies using the facility,
35 including, if willing to participate, the United States or its water
36 contractors, for the design, construction, operation, maintenance,
37 and repair of the facility. The authority shall approve or reject
38 proposed actions of the joint powers agency and make written
39 findings with regard to those actions.

1 (2) *The contract shall comply with all of the following*
2 *requirements:*

3 (A) *Provide for an appropriate allocation of costs attributable*
4 *to the use of the facility to deliver water to the State Water*
5 *Resources Development System, the federal Central Valley Project,*
6 *and other water users, including a pro rata share of capital,*
7 *operation, maintenance, and replacement regulatory and*
8 *environmental costs.*

9 (B) *Allocate capacity in and priority to use the facility. The*
10 *allocation shall be consistent with the contracts for delivery of*
11 *water by the State Water Project and the federal Central Valley*
12 *Project.*

13 (C) *Include other terms and conditions that the authority*
14 *determines necessary or appropriate.*

15 (D) *Provide for the replacement of components of the facility*
16 *as necessary and shall otherwise be performed in a manner*
17 *ensuring that the facility is maintained in good condition and*
18 *protected to ensure its long-term operation.*

19 (3) *The authority shall be fully responsible for all work carried*
20 *out pursuant to contract, including the quality and timeliness of*
21 *that work. The authority shall provide those taking water from the*
22 *facility with documentation that demonstrates substantial*
23 *compliance with those contract provisions.*

24 79612. (a) *The authority shall take all necessary or*
25 *appropriate actions to expeditiously obtain permits and other*
26 *approvals for, and commence operation of, the facility, including*
27 *coordinating and cooperating with all state or federal regulatory*
28 *agencies.*

29 (b) *Any state agency with regulatory or approval authority with*
30 *respect to the construction, implementation, or operation of the*
31 *facility shall take all actions necessary or appropriate to process*
32 *and make any required determinations on permits or approvals*
33 *as expeditiously as possible.*

34 79614. *All of the costs of the authority that are associated with*
35 *the ordinary operations, maintenance, and replacement of the*
36 *facility shall be paid for from funds generated pursuant to Section*
37 *79622. The portion of the costs so paid attributable to deliveries*
38 *to State Water Project contractors shall be considered a*
39 *transportation cost billable to the State Water Project contractors*

1 pursuant to the applicable provision of each contractor's long-term
2 water supply contract.

3 79616. (a) The facilities constructed pursuant to Section 79610
4 shall not adversely impact the intake facility jointly operated by
5 the County of Sacramento and the East Bay Municipal Utility
6 District.

7 (b) If changes are required to be made to the Elk Grove plant
8 of the Sacramento Regional County Sanitation District because
9 of the operation of the facility constructed pursuant to this division,
10 the costs shall be included as costs of the facility and shall not be
11 the responsibility of that district. Nothing in this division prohibits
12 any regulatory agency from requiring changes to that plant or any
13 other facility of the district that are required by law.

14 79618. Prior to the operation of the facility, and periodically
15 thereafter, pursuant to its existing authority, the State Water
16 Resources Control Board shall adopt water quality standards and
17 water rights terms and conditions that require delta outflows and
18 water quality sufficient to protect and restore to sustainable levels
19 fisheries native to the delta and the San Francisco Bay. To the
20 extent feasible, water quality standards and water rights shall
21 include flexibility to allow adaptive management.

22 79619. (a) Nothing in this division shall impact existing area
23 of origin or county of origin protections.

24 (b) Section 5937 of the Fish and Game Code applies to all
25 waters tributary to the delta.

26 (c) The public trust doctrine applies to all waters tributary to
27 the delta.

28 (d) Nothing in this division amends the California Endangered
29 Species Act (Chapter 1.5 (commencing with Section 2050) of
30 Division 3 of the Fish and Game Code) or the California
31 Environmental Quality Act.

32 79620. In addition to the powers and duties granted by this
33 division, the authority succeeds to, and is vested with, all the
34 powers, duties, responsibilities, obligations, liabilities, and
35 jurisdiction of the California Bay-Delta Authority, which shall
36 cease to exist as of the date on which the board conducts its first
37 meeting pursuant to subdivision (b) of Section 79605.

38 79621. (a) Before a public water agency may enter into a
39 contract with the authority for water conveyance by means of the
40 facility, the public water agency, and its contractors and

1 subcontractors, as applicable, shall submit to the authority a plan
2 approved by the State Water Resources Control Board for reducing
3 the per capita use of municipal and industrial water by the public
4 water agency and any municipal and industrial water contractors
5 of the public water agency, by 10 percent by 2015 and 25 percent
6 by 2030 as compared to its average water use in the period from
7 2000 to 2007, inclusive, by means of increased water efficiency,
8 improved groundwater management, recycling, and the use of
9 other local water supplies.

10 (b) Before a public water agency may enter into a contract with
11 the authority for water conveyance by means of the facility, the
12 public water agency, and its contractors and subcontractors as
13 applicable, shall submit to the authority a plan approved by the
14 State Water Resources Control Board that ensures that agricultural
15 water delivered by the public water agency is used in an
16 economically efficient manner and that water is not wasted. The
17 plan shall demonstrate the implementation of financially efficient
18 and technologically feasible methods of water use reduction.

19 79622. (a) The authority may issue revenue bonds to finance
20 the design, environmental review, permitting, and construction of
21 the facility.

22 (b) The revenue bonds shall be repaid by charges, imposed
23 pursuant to subdivision (d), on water contractors and other
24 beneficiaries that contract for the use of the facilities constructed
25 pursuant to this division, commensurate with the benefits received.
26 No charges shall be applied to repay the revenue bonds that are
27 not directly related to the construction, operation, maintenance,
28 and replacement of the facility.

29 (c) Except for the fee imposed by Chapter 8 (commencing with
30 Section 79670), as required by Chapter 10 (commencing with
31 Section 11900) of Part 3 of Division 6, any costs incurred in
32 developing, constructing, or operating the facility for the
33 enhancement of fish and wildlife or the development of public
34 recreation shall not be charged to the contractors and shall be
35 nonreimbursable costs.

36 (d) The authority shall impose a fee for the transmission of
37 water through the facility sufficient to pay for all of the following:

38 (1) The repayment of the revenue bond issues pursuant to
39 subdivision (a).

40 (2) The operation and maintenance of the facility.

1 (3) *The salaries and other ongoing expenses of the joint powers*
2 *authority described in subdivision (h) of Section 79610 and the*
3 *authority.*

4 (4) *The annual audits required by Section 79630.*

5 (5) *The costs imposed on the authority by local, state and federal*
6 *agencies, and the courts.*

7 (6) *Notwithstanding Section 13340 of the Government Code,*
8 *the moneys generated pursuant to this section are hereby*
9 *continuously appropriated to the authority, without regard to fiscal*
10 *years, for purposes of this section.*

11 79623. (a) *The authority may contract to construct, own, and*
12 *operate a facility to relocate the intake of the North Bay Aqueduct*
13 *to the Sacramento River. That facility may also convey water for*
14 *local water agencies that can reasonably be served from the*
15 *facility, including, but not limited to, the City of Davis. The North*
16 *Bay Aqueduct replacement shall be considered part of the facility.*

17 (b) *The authority shall serve as the lead agency for conducting*
18 *environmental studies for the North Bay Relocation Facility*
19 *pursuant to the California Environmental Quality Act.*

20 (c) *The authority shall contract to construct the North Bay*
21 *Relocation Facility, subject to contracts with participating agencies*
22 *to repay the authority's costs.*

23 79624. (a) *The authority shall adopt or reject, by majority*
24 *vote, each decision made by the Delta Watershed Conservancy*
25 *within 60 days of that decision.*

26 (b) *The authority shall adopt or reject, by majority vote, each*
27 *land use decision made by the Delta Protection Commission that*
28 *is made pursuant to the authority granted to that commission*
29 *pursuant to Chapter 5 (commencing with Section 79650), within*
30 *60 days of that decision. The authority shall not review decisions*
31 *that are made by the Delta Protection Commission pursuant to*
32 *authority granted by other than that chapter.*

33 (c) *The authority shall adopt or reject, by majority vote, all*
34 *design, construction, and operational decisions made by the joint*
35 *powers authority described in subdivision (h) of Section 79610.*

36 79626. *The authority may receive grants or gifts from public*
37 *agencies, private entities, or individuals for the purposes of this*
38 *division.*

1 79628. *The authority shall be represented by the Attorney*
2 *General in any litigation, and shall reimburse the Attorney General*
3 *for any costs incurred.*

4 79630. (a) *The Auditor General shall audit the authority*
5 *annually, and shall be reimbursed by the authority for the audit.*
6 *The Auditor General shall report the findings of the audit to the*
7 *Legislature and the Governor, and shall make the results of the*
8 *audit available to the public by posting that information on its*
9 *Internet Web site.*

10 (b) *The Legislature may appropriate funds for an independent*
11 *audit of the authority.*

12 79632. *Venue for any litigation brought concerning the*
13 *construction or operation of the facility implemented pursuant to*
14 *this division shall be the Superior Court of Sacramento County.*

15 79634. (a) *The authority shall prepare plans and take actions*
16 *to address near-term water supply reliability needs in the delta.*
17 *Those actions shall include actions to ensure that urban and*
18 *agricultural water supplies derived from or crossing the delta,*
19 *including water supplies within the delta to support beneficial*
20 *uses, are not disrupted because of catastrophic failures of the delta*
21 *levees resulting from earthquakes, floods, land sinking, rising*
22 *ocean levels, or other forces. The actions shall include projects to*
23 *improve the reliability and emergency preparedness of water*
24 *supplies for public health and safety by interconnecting existing*
25 *critical water supply aqueducts that serve public health and safety*
26 *needs and cross multiple delta islands.*

27 (b) *The authority shall enter into a memorandum of*
28 *understanding with the department to enhance the department's*
29 *ability to respond to levee breaches and to reduce the potential*
30 *for levee failure. The memorandum shall address all of the*
31 *following:*

32 (1) *The acquisition and positioning of emergency construction*
33 *materials and equipment.*

34 (2) *Emergency projects to prevent levee failure or repair levees*
35 *or other flood control facilities to restore conveyance and flood*
36 *protection.*

37 (3) *The preparation and implementation of a delta emergency*
38 *operations plan.*

1 (4) *Emergency contracts for activities relating to a flood fight*
2 *or levee failure to prevent or mitigate loss of, or damage to, life,*
3 *health, property, or essential public services.*

4 (c) *For the purposes of implementing this section, priority shall*
5 *be given to the improvement of flood protection for vital public*
6 *water supplies by protecting critical water supply aqueducts that*
7 *serve public health and safety needs and cross multiple delta*
8 *islands. To achieve improvements expeditiously, the authority may*
9 *make advance funding commitments for this work under*
10 *agreements with an agency that is capable of carrying out the*
11 *work to protect water supply infrastructure.*

12 (d) *Actions required by this section shall be financed from funds*
13 *generated by the issuance of general obligation bonds pursuant*
14 *to this division.*

15
16 *CHAPTER 4. DELTA WATERSHED CONSERVANCY*
17

18 79640. (a) *There is hereby established within the California*
19 *Coastal Conservancy the Delta Watershed Conservancy consisting*
20 *of five members appointed by the Governor.*

21 (b) *The Delta Watershed Conservancy shall serve as the land*
22 *purchasing agent for the authority for environmental and*
23 *restoration purposes.*

24 79642. (a) *The Delta Water Conservancy may expend funds,*
25 *as allocated in accordance with this chapter to the conservancy*
26 *by the authority from the fund established pursuant to Section*
27 *79670 for that purpose, to implement projects and programs,*
28 *within the watershed of the bay-delta and the watershed of the*
29 *Trinity River, to restore and enhance the bay-delta ecosystem and*
30 *improve water quality.*

31 (b) *The Delta Watershed Conservancy shall establish bay-delta*
32 *ecosystem restoration goals and prepare a plan to achieve those*
33 *goals. The goals and plan shall be updated at least every 10 years.*
34 *The goals shall include all of the following:*

35 (1) *Restoration of listed and candidate species pursuant to the*
36 *California Endangered Species Act (Chapter 1.5 (commencing*
37 *with Section 2050) of Division 3 of the Fish and Game Code), and*
38 *the federal Endangered Species Act (16 U.S.C. Sec. 1531 et seq.),*
39 *with the goal of allowing populations of listed and candidate*

1 *species to become large and stable enough so that they no longer*
2 *need be listed, or be considered for listing.*

3 *(2) Restoration and expansion of wetlands.*

4 *(3) Restoration of anadromous and other native fish species,*
5 *by providing improved and expanded spawning, rearing, and*
6 *migration route habitat.*

7 *(4) Restoration of riparian habitat.*

8 *(5) Restoration of islands in the delta by growing vegetation,*
9 *thereby reducing the production of greenhouse gas emissions.*

10 *(6) Creation of carbon mitigation programs in the primary zone,*
11 *as defined in Section 29728 of the Public Resources Code, to*
12 *reduce or eliminate greenhouse gas emissions from delta islands*
13 *and farms in accordance with Division 25.5 (commencing with*
14 *Section 38500) of the Health and Safety Code.*

15 *(7) Other biological restoration programs.*

16 79643. *(a) Funds generated for capital outlay projects by the*
17 *issuance of general obligation bonds pursuant to this division, and*
18 *fees generated pursuant to Chapter 8 (commencing with Section*
19 *79670), shall be expended for ecosystem restoration activities*
20 *identified in the Delta Vision Blue Ribbon Task Force, December*
21 *14, 2007, report, "Foundation Concepts and Initial Activities for*
22 *Restoring the Delta Ecosystem," to be prioritized by the Delta*
23 *Watershed Conservancy, as follows:*

24 *(1) Restore the tidal marsh in Cache Slough complex.*

25 *(2) Restore the tidal marsh in Suisun.*

26 *(3) Conserve the Cache Slough-Suisun ecological corridor.*

27 *(4) Enhance the Yolo Bypass.*

28 *(5) Enhance the Mokelumne and Cosumnes floodplains linked*
29 *to tidal restoration.*

30 *(6) Restore the tidal marsh at Dutch Slough.*

31 *(7) Evaluate and implement, if appropriate, a project to*
32 *reconnect Elk Slough to the Sacramento River.*

33 *(8) Manage the Elk, Sutter, and Steamboat Sloughs for salmon*
34 *passage and fish habitats.*

35 *(9) Provide matching funds to improve wildlife-friendly*
36 *agriculture.*

37 *(10) Evaluate the potential for a lower San Joaquin River*
38 *floodplain and, if viable, implement.*

39 *(11) Establish a passage route for migratory fish, particularly*
40 *salmonids, from Vernalis to Chipps Island.*

1 (12) Conserve lowland grasslands.

2 (13) Increase late winter and early spring San Joaquin flows
3 for fish.

4 (14) Restore the tidal marsh in Fabian-Union-Middle Roberts
5 complex.

6 (b) Other actions that may be financed from the funds described
7 in subdivision (a) include actions to accomplish all of the
8 following:

9 (1) The control of invasive species.

10 (2) Increase spring delta outflows.

11 (3) Increase fall delta outflows.

12 (4) Implement short-term conveyance enhancements to reduce
13 delta ecology problems such as entrainment.

14 (5) Provide funds for cost sharing for subsidence reversal and
15 carbon sequestration wetlands at Sherman, Twitchell, and Jersey
16 Islands.

17 (6) Reduce contaminant loadings.

18 (7) Experiment with targeted salinity intrusions to control
19 invasive species and promote fish populations.

20 (8) Install screened diversions where determined beneficial by
21 fish biologists.

22 (9) Replace earthen portions of railroad with a causeway across
23 the Yolo Pass.

24 79644. (a) The Delta Watershed Conservancy shall consult
25 with any successor to the California Bay-Delta Authority, and the
26 agencies that participated in that authority, to avoid duplication,
27 and increase the effectiveness of expenditures under this division.

28 (b) The Delta Watershed Conservancy shall consider the
29 objectives and functions of the CALFED Bay-Delta Program in
30 developing its expenditure plan under this division.

31 79646. The Delta Watershed Conservancy shall not, by itself,
32 carry out construction or ecosystem restoration programs financed
33 by this division, but shall award grants and contracts to public
34 agencies and nonprofit organizations, including local conservation
35 corps, to carry out these programs.

36 79648. Only funds reserved for capital outlay projects may be
37 expended to purchase water rights for the environment and other
38 beneficial uses for the purpose of this chapter.

39
40 CHAPTER 5. DELTA PROTECTION COMMISSION

1 79650. Any approval of development by a city or county in the
2 primary and secondary zones of the delta shall not be effective
3 unless approved by the Delta Protection Commission. For the
4 purposes of this chapter and except as otherwise provided, the
5 “primary and secondary zones” refers to the zones described in
6 Sections 29728 and 29731 of the Public Resources Code.

7 79651. The Delta Protection Commission shall not approve
8 any development that is not necessary to maintain agricultural or
9 habitat protection land uses in the primary and secondary zones
10 of the delta below two feet above mean sea level. Notwithstanding
11 any other provision of law, these zones include lands adjacent to,
12 but not within, the delta if the commission determines that any of
13 the following applies:

14 (a) The proposed development would result in a threat to the
15 safety of those living or working in the development.

16 (b) The proposed development would result in damage or
17 destruction in the case of flooding or seismic activity.

18 (c) The proposed development would make flood control or
19 management in the delta more difficult.

20
21 CHAPTER 6. DELTA LAND MANAGEMENT
22

23 79655. No public agency, including any state agency, shall
24 manage agricultural lands they own within the delta in a way that
25 results in a reduction in the elevation of those islands. All public
26 agencies owning land in the delta shall manage those lands to
27 improve habitat values, and to reduce greenhouse gas emissions.

28
29 CHAPTER 7. DELTA SCIENCE ADVISORY PANEL
30

31 79660. (a) There is in the authority a Delta Science Advisory
32 Panel consisting of scientists selected by the board in accordance
33 with this section. The scientists shall have knowledge of hydrology,
34 geomorphology, biology, climatology, economics, soils and civil
35 engineering, seismology, geology, or other disciplines relevant to
36 the management of the bay-delta watershed, as determined by the
37 board.

38 (b) The Delta Science Advisory Panel shall have no more than
39 11 members, and shall include, but not be limited to, employed or
40 retired scientists from federal and state agencies not having major

1 *project or regulatory authority over the delta, the University of*
2 *California, the California State University, and nongovernmental*
3 *organizations.*

4 *(c) (1) The board shall select the panel members from a list of*
5 *nominees provided by the Director of the University of California*
6 *Center for Water Resources and the Director of the United States*
7 *Geologic Survey office in Sacramento.*

8 *(2) Panel members shall serve three-year terms. The panel*
9 *members shall select the chairperson of the panel.*

10 *(d) (1) The Delta Science Advisory Panel shall hold public*
11 *meetings and prepare an annual report for submission to the*
12 *authority on scientific issues related to the delta.*

13 *(2) The Delta Science Advisory Panel shall include in the report*
14 *scientific and technical findings regarding the management of the*
15 *delta and recommended actions of the authority, an identification*
16 *of short-term and long-term matters for research, and a description*
17 *of the relevance of these matters to the design, management, and*
18 *operations of the facility.*

19 *(3) The report shall include a discussion relating to the design,*
20 *construction, and operation of the facility given scientific*
21 *knowledge regarding possible ways to improve water quality,*
22 *ecosystem restoration, and methods to improve efficiency of water*
23 *deliveries to water users.*

24 *(4) The authority shall consider, and adopt where feasible and*
25 *practical, changes in the design, construction, and operation that,*
26 *in its judgment, would better utilize the scientific information*
27 *provided by the Delta Science Advisory Panel.*

28 *(e) For the first 10 years of operation, up to 10 percent of the*
29 *authority's budget shall be devoted to the implementation of a*
30 *delta solutions program devoted to scientific and technical work.*
31 *The program shall be designed in consultation with the Delta*
32 *Science Advisory Panel.*

33
34 *CHAPTER 8. CLEAN DRINKING WATER, WATER QUALITY*
35 *IMPROVEMENT, ENVIRONMENTAL ENHANCEMENT, AND WATER*
36 *SUPPLY DISASTER PREVENTION FUND*
37

38 *79670. (a) (1) There is hereby established the Clean Drinking*
39 *Water, Water Quality Improvement, and Environmental*
40 *Enhancement Fund.*

(2) *The authority shall impose a fee, not to exceed fifty dollars (\$50) per acre-foot of water transmitted through the facility, on all affected federal and state contractors, and any affected local water agency. The fee shall be increased annually in accordance with the California Consumer Price Index. Upon commencement of operation of the facility, the fee shall be imposed on water pumped from the delta by the State Water Resources Development System and the federal Central Valley Project without regard to whether the water is conveyed through the facility.*

(3) *The authority may impose a fee of five dollars (\$5) per acre-foot on water agencies that divert water upstream of the delta, that, under existing state or federal laws, are not otherwise required to pay mitigation fees for impacts on ecological functions of the delta that are caused by their diversions.*

(b) *Funds generated by the imposition of fees pursuant to this chapter shall be deposited in the fund.*

(c) *The proceeds of bonds issued and sold pursuant to Chapter 9 (commencing with Section 79680) shall be deposited in the fund. These proceeds may only be expended for capital outlay projects in accordance with this division. No more than 10 percent of these proceeds may be expended in any fiscal year for the purposes of Section 79634.*

(d) *Notwithstanding Section 13340 of the Government Code, the moneys in the fund are hereby continuously appropriated, without regard to fiscal years, to the authority for expenditure in accordance with this division.*

(e) *Funds generated from the fee imposed by this section shall not be expended to pay for any action authorized by this division unless the authority finds that the action mitigates impacts caused by the use of water by water users subject to the fee.*

CHAPTER 9. FISCAL PROVISIONS

79685. (a) *Bonds in the total amount of four billion dollars (\$4,000,000,000), not including the amount of any refunding bonds issued in accordance with Section 79697, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this division and to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds,*

1 *when sold, shall be and constitute valid and binding obligations*
2 *of the State of California, and the full faith and credit of the State*
3 *of California is hereby pledged for the punctual payment of both*
4 *the principal of, and interest on, the bonds as the principal and*
5 *interest become due and payable.*

6 *(b) The Treasurer shall sell the bonds authorized by the*
7 *committee pursuant to this section. The bonds shall be sold upon*
8 *the terms and conditions specified in a resolution to be adopted*
9 *by the committee pursuant to Section 16731 of the Government*
10 *Code.*

11 *79686. The bonds authorized by this division shall be prepared,*
12 *executed, issued, sold, paid, and redeemed as provided in the State*
13 *General Obligation Bond Law, and all of the provisions of that*
14 *law apply to the bonds and to this division and are hereby*
15 *incorporated in this division as though set forth in full in this*
16 *division.*

17 *79687. (a) Solely for the purpose of authorizing the issuance*
18 *and sale, pursuant to the State General Obligation Bond Law, of*
19 *the bonds authorized by this division, the Sacramento-San Joaquin*
20 *River Delta Finance Committee is hereby created. For the purposes*
21 *of this division, the Sacramento San Joaquin River Delta Finance*
22 *Committee is "the committee" as that term is used in the State*
23 *General Obligation Bond Law.*

24 *(b) The committee consists of the Director of Finance, the*
25 *Treasurer, and the Controller. Notwithstanding any other provision*
26 *of law, any member may designate a deputy to act as that member*
27 *in his or her place for all purposes, as though the member were*
28 *personally present.*

29 *(c) The Treasurer shall serve as chairperson of the committee.*

30 *(d) A majority of the members of the committee shall constitute*
31 *a quorum of the committee, and may act for the committee.*

32 *79688. The committee shall determine whether or not it is*
33 *necessary or desirable to issue bonds authorized pursuant to this*
34 *division to carry out the actions specified in this division and, if*
35 *so, the amount of bonds to be issued and sold. Successive issues*
36 *of bonds may be authorized and sold to carry out those actions*
37 *progressively, and it is not necessary that all of the bonds*
38 *authorized to be issued be sold at any one time.*

1 79689. “Board,” as defined in Section 16722 of the
2 Government Code for the purposes of compliance with the State
3 General Obligation Bond Law, means the department.

4 79690. There shall be collected each year and in the same
5 manner and at the same time as other state revenue is collected,
6 in addition to the ordinary revenues of the state, a sum in an
7 amount required to pay the principal of, and interest on, the bonds
8 each year, and it is the duty of all officers charged by law with
9 any duty in regard to the collection of the revenue to do and
10 perform each and every act which is necessary to collect that
11 additional sum.

12 79691. Notwithstanding Section 13340 of the Government
13 Code, there is hereby appropriated from the General Fund in the
14 State Treasury, for the purposes of this division, an amount that
15 will equal the total of the following:

16 (a) The sum annually necessary to pay the principal of, and
17 interest on, bonds issued and sold pursuant to this division, as the
18 principal and interest become due and payable.

19 (b) The sum that is necessary to carry out the provisions of
20 Section 79694, appropriated without regard to fiscal years.

21 79692. The board may request the Pooled Money Investment
22 Board to make a loan from the Pooled Money Investment Account
23 in accordance with Section 16312 of the Government Code for the
24 purpose of carrying out this division. The amount of the request
25 shall not exceed the amount of the unsold bonds that the committee
26 has, by resolution, authorized to be sold for the purpose of carrying
27 out this division. The board shall execute those documents required
28 by the Pooled Money Investment Board to obtain and repay the
29 loan. Any amounts loaned shall be deposited in the fund to be
30 allocated in accordance with this division.

31 79693. Notwithstanding any other provision of this division,
32 or of the State General Obligation Bond Law, if the Treasurer
33 sells bonds that include a bond counsel opinion to the effect that
34 the interest on the bonds is excluded from gross income for federal
35 tax purposes under designated conditions, the Treasurer may
36 maintain separate accounts for the bond proceeds invested and
37 for the investment earnings on those proceeds, and may use or
38 direct the use of those proceeds or earnings to pay any rebate,
39 penalty, or other payment required under federal law or take any
40 other action with respect to the investment and use of those bond

1 *proceeds, as may be required or desirable under federal law in*
2 *order to maintain the tax-exempt status of those bonds and to*
3 *obtain any other advantage under federal law on behalf of the*
4 *funds of this state.*

5 79694. *For the purposes of carrying out this division, the*
6 *Director of Finance may authorize the withdrawal from the*
7 *General Fund of an amount or amounts not to exceed the amount*
8 *of the unsold bonds that have been authorized by the committee*
9 *to be sold for the purpose of carrying out this division. Any*
10 *amounts withdrawn shall be deposited in the fund. Any money*
11 *made available under this section shall be returned to the General*
12 *Fund, with interest at the rate earned by the money in the Pooled*
13 *Money Investment Account, from proceeds received from the sale*
14 *of bonds for the purpose of carrying out this division.*

15 79695. *All money deposited in the fund that is derived from*
16 *premiums and accrued interest on bonds sold pursuant to this*
17 *division shall be reserved in the fund and shall be available for*
18 *transfer to the General Fund as a credit to expenditures for bond*
19 *interest.*

20 79696. *Pursuant to Chapter 4 (commencing with Section*
21 *16720) of Part 3 of Division 4 of Title 2 of the Government Code,*
22 *the cost of bond issuance shall be paid out of the bond proceeds.*
23 *These costs shall be shared proportionately by each program*
24 *funded through this division.*

25 79697. *The bonds issued and sold pursuant to this division*
26 *may be refunded in accordance with Article 6 (commencing with*
27 *Section 16780) of Chapter 4 of Part 3 of Division 4 of Title 2 of*
28 *the Government Code, which is a part of the State General*
29 *Obligation Bond Law. Approval by the electors of the state for the*
30 *issuance of the bonds under this division shall include approval*
31 *of the issuance of any bonds issued to refund any bonds originally*
32 *issued under this division or any previously issued refunding bonds.*

33 79698. *The Legislature hereby finds and declares that,*
34 *inasmuch as the proceeds from the sale of bonds authorized by*
35 *this division are not “proceeds of taxes” as that term is used in*
36 *Article XIII B of the California Constitution, the disbursement of*
37 *these proceeds is not subject to the limitations imposed by that*
38 *article.*

39 SEC. 2. *Section 1 of this act shall be submitted to the voters at*
40 *the November 4, 2008, statewide general election in accordance*

1 *with provisions of the Government Code and the Elections Code*
2 *governing the submission of a statewide measure to the voters.*

3 *SEC. 3. (a) Notwithstanding any other provision of law, all*
4 *ballots of the election shall have printed thereon and in a square*
5 *thereof, the words: "Sacramento-San Joaquin River Delta Clean*
6 *Drinking Water, Water Supply Security, and Environmental*
7 *Improvement Act of 2008" and in the same square under those*
8 *words, the following in 8-point type: "This act provides for a bond*
9 *issue of four billion dollars (\$4,000,000,000) to provide funds to*
10 *substantially improve drinking water quality, enhance the*
11 *environment, and prevent disasters from interrupting California's*
12 *major water supply."*

13 *(b) Opposite the square, there shall be left spaces in which the*
14 *voters may mark the ballot in the manner required by law to*
15 *indicate whether they vote for or against the act.*

16 *(c) Where voting in the election is done by means of voting*
17 *machines used pursuant to law in a manner that carries out the*
18 *intent of this section, the use of the voting machines and the*
19 *expression of the voters' choice by means thereof are in compliance*
20 *with this section.*

21 *SEC. 4. Notwithstanding Sections 13247 and 13281 of the*
22 *Elections Code, the language in Section 3 shall be the only*
23 *language included in the ballot label for the condensed statement*
24 *of the ballot title, and the Attorney General shall not supplement,*
25 *subtract from, or revise that language, except that the Attorney*
26 *General may include the financial impact summary prepared*
27 *pursuant to Section 9087 of the Elections Code and Section 88003*
28 *of the Government Code. The ballot label is the condensed*
29 *statement of the ballot title and the financial impact summary.*

30 *SEC. 5. Section 1 of this act shall become operative only if*
31 *both of the following occur:*

32 *(a) Senate Constitutional Amendment 2 of the 2007–08 Regular*
33 *Session is submitted to and approved by the voters at the November*
34 *4, 2008, statewide general election.*

35 *(b) The voters approve the Sacramento-San Joaquin River Delta*
36 *Clean Drinking Water, Water Supply Security, and Environmental*
37 *Improvement Act of 2008, as set forth in Section 1 of this act.*

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**All matter omitted in this version of the bill
appears in the bill as amended in Senate,
April 24, 2007 (JR11)**

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